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10/573,453

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EXAMINER

PLUMMER, ELIZABETH A

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

10/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,453

Applicant(s)

WILLIAMS ET AL.

Examiner

Elizabeth A. Plummer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's amendments and arguments received 08/13/2007 have entered and considered. Claims 13, 16 and 17 have been canceled. An examination of pending claims 1-12 and 14-15 is herein presented.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-8, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Heywood (US Patent 479,275).

a. Regarding claim 1, Heywood discloses an elongate joining member (B) (Fig. 2) for bridging a gap between a first and at least a second panel (J), each panel having a first surface and an opposed second surface (Fig. 3), the joining member comprising a flange member (bottom horizontal bar of B), an extension member (vertical leg of B) extending from said flange member and at least one retaining member (K) connected to said extension member, and having a first preferential configuration relative to said extension member (Fig. 3), said at least one retaining member being moveable between said first preferential configuration (Fig. 3) and a second different configuration (Fig. 2) (lines 49-53), and wherein in said second configuration, said at least one retaining member is insertable into said gap between the first and at least second panels (Fig. 3), said

at least one retaining member adopts said first preferential configuration to engage with at least a portion of the second surface of each panel and said flange member is engageable with at least a portion of the first surface of each panel such that said flange member substantially bridges the gap between the first and at least second panels (Fig. 3).

b. Regarding claim 2, the flange member comprises a main body defined on one side by a first surface for engaging said at least a portion of the first surface of both the first and second panels and a second opposing side that presents the outward appearance of the joining member (Fig. 2).

c. Regarding claim 3, the flange member is movable from a first configuration to a second configuration (lines 24-27).

d. Regarding claim 5, the extension member is relatively straight and extends from a proximal end adjacent the flange member to a distal end (Fig. 2,3).

c. Regarding claim 6, the at least one retaining member comprises opposing first and second leg members (K) each connected to and disposed at an angle relative to the extension member (Fig. 2).

d. Regarding claim 7, wherein in said first preferential configuration (Fig. 3), the first and second leg members (K) extend from a first end that is connected to the extension member to a second end that is free from the extension member (Fig. 2,3).

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- e. Regarding claim 8, the second end of the first leg member is engageable with the second surface of the first panel and the second end of the second leg member is engageable with the second surface of the second panel (Fig. 3).
- f. Regarding claim 10, the joining member is made from a resiliently flexible material since it is capable of being bent (lines 24-27, lines 49-53).
- g. Regarding claim 12, Heywood discloses a panel assembly (Fig. 3) comprising at least two panels (J), each having a first surface, a second opposed surface and side walls, said at least two panels arrange relative to one another such that a sidewall of one panel and a sidewall of a second panel define a gap therebetween (Fig. 3), said gap bridged by an elongate joining member (B) (Fig. 2,3) comprising a flange member (bottom horizontal bar), an extension member (center vertical leg) extending from said flange member and at least one retaining member (K) connected to said extension member, and having a first preferential configuration (Fig. 3) relative to said extension member, said at least one retaining member being movable between said first preferential configuration and a second different configuration (Fig. 2), and wherein in said second configuration, said retaining member is insertable into said gap (lines 49-53), and said at least one retaining member adopts said first preferential configuration to engage at least a portion of the second surface of each panel and said flange member engages at least a portion of the first surface of each panel such that said flange member substantially bridges the gap between said at least first and second panels (Fig. 3).

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3. Claims 1 and 11 rejected under 35 U.S.C. 102(b) as being anticipated by Grant, Jr. (US Patent 4,913,576).

a. Regarding claim 1, Grant, Jr. discloses an elongate joining member (Fig. 2) for bridging a gap between a first and at least a second panel, each panel having a first surface and an opposed second surface (Fig. 2), the joining member comprising a flange member (14), an extension member (12) extending from said flange member and at least one retaining member (16) connected to said extension member, and having a first preferential configuration relative to said extension member, said at least one retaining member being moveable between said first preferential configuration (Fig. 2) and a second different configuration (Fig. 3), said at least one retaining member being moveable, or capable of being moved (column 3, lines 38-39), and wherein in said second configuration, said at least one retaining member is insertable through said gap between the first and at least second panels (Fig. 2), said at least one retaining member adopts said first preferential configuration to engage with at least a portion of the second surface of each panel and said flange member is engageable with at least a portion of the first surface of each panel such that said flange member substantially bridges the gap between said the first and at least second panels (Fig. 2).

b. Regarding claim 11, the retaining member includes a single leg member (16) connected to the extension member.

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4. Claims 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Tamlyn (US Patent 6,018,924).

a. Regarding claim 14, Tamlyn discloses an elongate joining member (10) for bridging a gap between a first (48) and at least a second panel (14), each panel having a first surface and an opposed second surface (Fig.), the joining member comprising a flange member (42), and at least two extension members (legs 44) extending from said flange member, each extension member being member being moveable relative to each other between a first preferential configuration and a second insertion configuration and wherein, in use, when in their second configuration, said at least two extension members are insertable into said gap between the first and at least second panels, at least one of said extension members further including at least one retaining member (Fig.) such that when said at least two extension members are inserted through said gap, said extension members adopt said first preferential configuration to cause said at least one retaining member to engage with at least a portion of the second surface of a panel and wherein said flange member is engageable with at least a portion of the first surface of each panel such that said flange member substantially dirges the gap between the first and at least second panels (Fig.).

b. Regarding claim 15, the two extension members comprise two resiliently flexible legs (44) (Fig.).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heywood (US Patent 479,275) in view of Ruff et al (US Patent 4,067,155). Regarding claim 4, Heywood discloses a flange member that is movable between different configurations, which inherently includes a domed configuration. Heywood does not disclose that the flange member is movable between a substantially domed configuration to a substantially flat configuration and wherein, in the second substantially flat configuration, the first surface of the flange member is substantially flush with the two panels. However, it is notoriously well known in the art of device joining connectors that movable joining members can be movable between a substantially domed configuration to a substantially flat configuration and wherein, in the second substantially flat configuration, the first surface of the flange member is substantially flush with two panels. For example, Ruff et al. discloses a joining member (10) for bridging the gap between two panels (Fig. 4) that is movable between a substantially domed configuration (Fig. 2) to a substantially flat configuration (Fig. 4) and wherein, in the second substantially flat configuration, the first surface of the flange member is substantially flush with the two panels (Fig. 4) in order to completely seal the gap. It would have been obvious to one of ordinary skill in the art to modify Heywood to include

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a substantially domed configuration moving into a substantially flat configuration wherein, in the second substantially flat configuration, the first surface of the flange member is substantially flush with the two panels, such as taught by Ruff et al., in order to make the flange better cover the entire gap between the two panels.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heywood (US Patent 479,275). Regarding claim 9, Heywood discloses the invention as claimed except for the second end of the first and second leg members including a grooved or serrated face to engage the second surfaces of the panels. However, Heywood discloses a beaded face (L) in order to better engage the second surfaces of the panels. It would have been a matter of obvious design choice to one of ordinary skill in the art at the same time the invention was made to form the second end of the first and second leg members with a groove or serrations, as Heywood is concerned with enhancing the gripping qualities of the second end. Furthermore, Applicant admits in the disclosure that any other means besides grooved or serrated faces can be used to grip the second surfaces of the panels as long as it is further securing the joining device between the panels (page 5, lines 31-35).

Response to Arguments

8. Applicant's arguments filed 08/13/2007 have been fully considered but they are not persuasive. Regarding applicant's argument that Heywood discloses a solid lead structure that is not insertable through a gap between two panels, when the joining member of Heywood is in a configuration such as seen in Fig. 2, the member is inherently capable of being inserted into a gap between two panels. In response to

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applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., joining member once adopts a first preferential configuration without the help of a user to secure and bend the retaining member in place) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In this case, any means, including actions of a user, can be used to make the joining member adopt a "preferential configuration". Regarding applicant's argument that Grant has fixed retaining members, Grant states the retaining member, or flange 16, can be flexible (column 3, lines 38-39). This flexibility inherently imparts the capable of being moved into different configurations when being assembled. Regarding applicant's arguments that Tamlyn the first preferential configuration causes the retaining member to engage at least a portion of the second surface of a panel, when Tamlyn is moved into its first preferential configuration (Fig.) the retaining members are engaging at least a portion of the second surface of a panel (Fig.)

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Plummer whose telephone number is (571) 272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.CHAPMAN/
PRIMARY EXAMINER
ART UNIT 3635

EAP
SAP